

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NATIONAL-SOUTHWIRE ALUMINUM COMPANY)	
)	
V.)	CASE NO. 9437
)	
BIG RIVERS ELECTRIC CORPORATION)	

O R D E R

On June 6, 1986, the Commission held oral argument on (1) Big Rivers Electric Corporation's ("Big Rivers") motion to compel National-Southwire Aluminum Company ("NSA") to respond to Big Rivers' first and second requests for information; (2) Alcan Aluminum Corporation's ("Alcan") motion for a prehearing order providing that the issue of rate differentials between Alcan and NSA has been rendered moot by NSA's second amended complaint; and (3) the procedural dates necessary to bring this case to hearing.

BIG RIVERS' MOTION TO COMPEL

Big Rivers claims that NSA's request for a rate reduction is based on numerous allegations in its pleadings and prefiled testimony that its Hawesville smelter is not economically viable due to the lack of a competitive electric rate from Big Rivers. Big Rivers argues that since NSA has made the economic viability of its smelter an issue in this case, NSA must provide detailed financial and economic information relating to its operations and those of its competitors. NSA argues that its claim for rate relief is based solely on traditional rate-making principles

involving issues of Big Rivers' operations and that the information requested by Big Rivers is not relevant to any issue in this proceeding.

Based on the evidence of record and being advised, the Commission is of the opinion and hereby finds that NSA's claim for a rate reduction is based on rate-making issues involving Big Rivers' operations. NSA's economic viability is not an issue in this case and any information relating thereto is not relevant. Therefore, Big Rivers' motion to compel should be denied.

The Commission further finds that NSA's prefiled testimony contains numerous references to the Hawesville smelter's need for a competitive electric rate and discussions of smelter operations in other jurisdictions. As the issues have been stated by NSA, this testimony is clearly not relevant to Big Rivers' operations. Big Rivers' has requested the Commission to clarify the issues to be adjudicated in this case. Fundamental principles of due process, coupled with the need to avoid the needless expenditure of time and resources on nonissues, require the Commission to respond to Big Rivers' request. The Commission will treat Big Rivers' request to clarify the issues as a motion to strike all non-relevant testimony. Consequently, the Commission finds that those portions of NSA's prefiled testimony relating to its economic viability and need for a competitive rate are not relevant to NSA's request for a rate reduction and should be stricken from the record.

ALCAN'S MOTION TO DISPOSE OF RATE DIFFERENTIAL ISSUE

Alcan states that NSA's original complaint sought the establishment of a rate differential between NSA and Alcan, but that NSA's subsequent amendments implicitly indicate an abandonment of the rate differential. Alcan requests the Commission to affirmatively recognize in a prehearing order that NSA has withdrawn this issue from this case. NSA's response at the oral argument confirmed that its second amended complaint had deleted its request for any rate differential. The Commission finds that Alcan's motion is meritorious and the relief requested will further define the issues for hearing. The Commission will, therefore, grant Alcan's motion.

PROCEDURAL SCHEDULE

The Attorney General's Office ("AG") filed a statement on June 2, 1986, requesting the Commission to establish a date certain for responses to its data requests, provide for the filing of its testimony no sooner than 14 days thereafter, and allow further information requests to Big Rivers relating to the content of Big Rivers' testimony. At the oral argument, the AG requested to file its testimony 14 days after the filing of Big Rivers' testimony. Alcan has also requested that all parties be afforded an opportunity to request additional information relating to any party's prefiled testimony. The Commission is of the opinion that this case should proceed to hearing relatively quickly due to the elimination of NSA's economic viability and NSA/Alcan rate differentials as issues. Therefore, the Commission finds that the procedural schedule attached hereto as Appendix A should be

adopted as a reasonable balance between the defendants' and intervenors' need for time to prepare their respective testimony and NSA's need for a speedy resolution of its complaint. The AG has presented no valid reason why it should be permitted to file testimony subsequent to Big Rivers. Any new issues raised by Big Rivers can be addressed by the AG and any other intervenor in rebuttal testimony.

IT IS THEREFORE ORDERED that:

1. Big Rivers' motion to compel be and it hereby is overruled.

2. Big Rivers' Motion to Strike those portions of NSA's prefiled testimony relating to its economic viability and need for a competitive rate be and it hereby is granted.

3. NSA shall within 7 days of the date of this Order file amended copies of its prefiled testimony eliminating those portions ordered to be stricken.

4. NSA's Second Amended Complaint seeks a rate reduction for all customers of Big Rivers and any evidence on rate differentials between NSA and Alcan be and it hereby is not relevant to any issue in this case.

5. The procedural schedule set forth in Appendix A be and it hereby is adopted.

Done at Frankfort, Kentucky, this 17th day of June, 1986.

PUBLIC SERVICE COMMISSION

Richard D. Herman
Chairman

Robert L. [Signature]
Vice Chairman

James M. Williams
Commissioner

ATTEST:

Secretary

Appendix A

Procedural Schedule

All parties shall respond to requests for information within 7 days of the date of this Order or 7 days of the date the request was received, which ever is later.

Defendants and Intervenors shall mail requests for information to NSA or Defendants by	July 3, 1986
Defendants and Intervenors shall complete depositions, if any, of NSA by	July 10, 1986
Defendants and Intervenors shall prefile testimony, if any, by	July 24, 1986
Any party shall mail requests for information to a Defendant or Intervenor relating to its testimony by	July 31, 1986
Rebuttal Testimony by any party shall be filed by	August 13, 1986
Hearing at the Commission's Offices in Frankfort, Ky., at 9:00 A.M. E.D.T.	August 14, 1986
Briefs, if any, shall be mailed by	August 29, 1986